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S E C R E T SECTION 01 OF 03 HARARE 000298

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [ZI](#) [ZANU](#) [PF](#)

SUBJECT: GOZ SETS PARLIAMENTARY ELECTIONS FOR MARCH AS  
PLAYING FIELD TILTS STEEPER FOR RULING PARTY

REF: (A) HARARE 268 (B) HARARE 249 (C) HARARE 199 (D)  
HARARE 188 (E) HARARE 174 (F) HARARE 73

Classified By: Political Officer Win Dayton under Section 1.5(b)(d)

1. SUMMARY: The GOZ's February 19 announcement that parliamentary elections would be conducted in March 2004 follows a series of setbacks to prospects that their conduct would be free and fair. During the past week, the GOZ withdrew its request for UN involvement in elections; extended the permissible period of detention without charge to a month; and continued to prevent The Daily News from publishing. The ruling party gives no indication that it will brook a fair election contest next year, leaving the frustrated opposition contemplating an election boycott. Instead, the message is that ZANU-PF is prepared to run elections in its own flawed manner and intensify internal repression while defying any international reaction this provokes. END SUMMARY.

March Election Date

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2. (C) State radio announced on February 19 that President Mugabe had stated that parliamentary elections would be held in March 2005. The constitution requires that elections be conducted by June 2005. The announcement appeared to squelch rumors that the government would declare snap elections in the coming months. Minister for Justice, Parliamentary and Legal Affairs (and principal inter-party interlocutor) Patrick Chinamasa announced that voter registration would begin in May. No mention was made of the timing of presidential elections, which are scheduled for 2006 but have been the subject of inter-party talks on talks (refs A and D), or of any potential electoral reforms.

3. (C) UN officials confirmed to the Embassy press reports that the GOZ had withdrawn its request for UN assistance in the parliamentary election's administration. They indicated that the GOZ may reconsider but that the visit of a UN election assessment team scheduled to begin March 3 had been cancelled.

Due Process Further Curtailed

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4. (U) The GOZ on February 13 promulgated by executive fiat the "Presidential Powers (Temporary Measures) Amendment of Criminal Procedure and Evidence Act" (text e-mailed to AF/S), which permits police to hold individuals for seven days without charge pending investigation of a crime, and for an additional 21 days if the state produces prima facie evidence of a crime. The measure prohibits a court from granting bail in such instances. The GOZ trumpeted the measure as necessary for its counter-corruption agenda and, indeed, the measure has first been employed against a ZANU-PF politburo member, James Makamba, in connection with alleged illegal forex dealings.

5. (U) According to initial state media reports and officially circulated summaries of the new measure, it was to apply only to "economic" crimes, such as foreign exchange "externalization" and trading in controlled items such as grains or minerals. However, the measure's annexes include a host of non-economic offenses, including those under the Public Order and Security Act (POSA), the law that often serves as a pretext to arrest those criticizing the government.

6. (U) The MDC and Zimbabwe's legal community have vocally condemned the new act in forceful terms. Objections include:

-- The measure violates a constitutional provision limiting detention of an individual without charge to 48 hours.

-- It violates separation of powers principles as an unconstitutional usurpation of legislative authority by the

executive.

-- It represents an unconstitutional usurping of judicial prerogative on bail by the executive.

#### Courts Temporizing

17. (U) We are reporting via septel on the recess of opposition leader Morgan Tsvangirai's treason trial and deferral of decision on the consolidated appeal of issues relating to operation of The Daily News (TDN). In the meantime, TDN, the country's only independent daily, has not published since the Supreme Court upheld the constitutionality of the Access to Information and Protection of Privacy Act (AIPPA) on February 5 (ref E).

#### MDC to Sit Out?

18. MDC Spokesperson Paul Themba-Nyati reiterated on SW Radio Africa February 18 that the party was seriously weighing a boycott of the parliamentary elections if the GOZ did not undertake meaningful reforms, including the establishment of an independent electoral commission and significant curbs on intimidation. MDC Shadow Minister for Legal Affairs David Coltart circulated to diplomats and civil society representatives the same day a missive (e-mailed to AF/S) in which he suggested that the party impose conditions on inter-party talks and boycott a flawed electoral process. He also took donors to task for extending certain assistance to the GOZ and for their indulgence of "quiet diplomacy".

#### COMMENT

19. (C) The GOZ's withdrawal of its solicitation of UN electoral assistance is just the most recent, though perhaps most telling, indication that ZANU-PF has no intention of countenancing a fair election contest or even a South African-sponsored dialogue leading to presidential and parliamentary elections in 2005. If ZANU-PF cannot entice the MDC into a government of national unity (which still seems unlikely), it will be content to have the opposition participate in an election it will not be permitted to win. The ruling party is unlikely to be moved by MDC threats to boycott the election; it probably calculates on a quiescent response to a flawed (even uncontested) election from enough neighbors and developing countries to meet its low threshold of desired respectability. We see no evidence that the party is considering the balancing -- even superficially -- of a heavily tilted playing field to mollify its critics, as it appears to fear the risks of a level field more than it does any diminution of international assistance. The non-substantiveness of the recent cabinet shuffle (ref B) offers little hope of new perspectives in GOZ thinking; indeed, it reflects a circling of wagons and preparation for a campaign to crush the opposition electorally.

10. (C) For the MDC leadership, the election is a Hobson's choice: it fears that the opposition's participation in a flawed process will confer greater legitimacy on Mugabe's party while a boycott will simply marginalize themselves in the eyes of their electorate and many in the international community, particularly within the region. The detention measure may significantly complicate prospects for mass action by the MDC or civil society. In the past, arrested demonstrators could effectively count on being released within 48 hours; they must now weigh the costs to job and family of a month's detention. The MDC's growing frustration is likely to sharpen their appeals for international support.

11. (S/NF) Why did the GOZ implement its controversial new measure via executive fiat instead of through a parliament it thoroughly controls? Speed was important; sensitive reporting indicates that Mugabe personally wanted to engineer a quick, legal, and onerous sanction to shackle Makamba. In addition, the ruling party wanted to avoid another brouhaha like the one instigated by the opposition in parliament over the recent Land Acquisition Act Amendments (ref C). Finally, the party leadership may have been nervous about the reaction of its own MPs over the measure: several had been outspokenly critical of the lengthy police detention without charge of ZANU-PF MP Philip Chiyangwa (ref F), a practice effectively legalized by this measure and one that can now be employed against each of them.

12. (U) The coming months will offer a number of litmus tests for government intentions toward individual liberties, democratic processes, and the opposition. The MDC awaits a response to its various proposals, including key electoral reforms, in the inter-party talks on talks. The Supreme Court has deferred a decision on TDN's consolidated appeals, which may decide the paper's fate, until March 3. Nomination filings for the Zengeza parliamentary by-election, often an

occasion for intimidation of opposition candidates, are scheduled for February 20, with the by-election set to be held March 27-28. A by-election for a formerly MDC-held parliamentary seat in the rural district of Lupane will follow at a date to be announced.

SULLIVAN